

Message

From: Pinkston, Daniel (ENRD) [Daniel.Pinkston@usdoj.gov]
Sent: 3/22/2022 9:30:11 PM
To: Cathy Laughner [cathyl@bkbh.com]; ecoleman@helenamt.gov
CC: Livingston, Peggy [Livingston.Peggy@epa.gov]; Llamozas, Emilio [Llamozas.Emilio@epa.gov]
Subject: City of Helena v. EPA -- documents in advance of discussion...
Attachments: Helena Penalty Explanation 03_22_2022.pdf; Helena Consent Agreement emailing 2022-03-22.pdf

Cathy and Ed:

In preparation for our call tomorrow, we are attaching two documents.

The first is a consent agreement that would be used to document a settlement of the administrative penalty proceeding. This version includes our offer to discount the penalty by 20 percent to \$32,000. The amount and the terms of the document have been approved by EPA management. If the amount is changed, the format would remain the same but management would have to agree to a revised amount.

The second document is an explanation of the factors EPA considered in arriving at the proposed penalty amount. The document sets forth each count of the penalty complaint, provides some factual background on the violation, and includes a short explanation of how EPA weighed the various factors. We are not expecting you to agree with the factual statements or EPA's analysis, and don't think it would be particularly productive to discuss the substantive claims, but we provide these materials so you have an idea of how EPA came to its position.

We have prepared these materials in response to your request in our last settlement discussion. As such, we consider these documents to be settlement confidential, prepared in order to facilitate our discussions. We will be prepared to answer questions you might have. While we understand that your position has been that the City will not pay any penalty, we hope that you having a better idea of EPA's considerations in arriving at its position will result in a reasonable counteroffer to settle the penalty proceeding and the federal court complaint as well.

We look forward to speaking with you.

Regards,
Dan

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